

§ 709.7

(f) The extent to which the offense was related to the establishment or operation of a project supported by OPIC; and

(g) Any factors relating to the effect of suspension on the national interest of the United States.

§ 709.7 Effect of suspension.

(a) Any entity suspended pursuant to a suspension determination shall not, for the duration of such suspension, and subject to the provisions of section 7(b), be eligible to receive any additional insurance, reinsurance, guaranty, loan, or other financial support from OPIC.

(b) Suspended entities:

(1) May be retained on the OPIC mailing list only for the purpose of receiving informational mailings;

(2) May register projects with OPIC but may not submit project applications to OPIC;

(3) May continue to deal with OPIC with respect to agreements entered with OPIC prior to the suspension and may amend or be granted modifications of such agreements, including loan reschedulings and refinancings;

(4) May not be invited to participate in OPIC-sponsored investment missions or other similar activities; and

(5) May not receive indirectly, or beneficially, whether through the purchase of project participations, the use of intermediary entities or other such devices, any OPIC services which they would not be entitled to receive directly, and may not be the beneficiary of financial support advanced by a third party where such support, in turn, is guaranteed or insured by OPIC; provided, however that such suspended entity shall be entitled to all benefits and payments accruing to holders of negotiable instruments guaranteed by OPIC and acquired by such suspended entity pursuant to a public offering thereof by the original or any subsequent holder thereof.

§ 709.8 Procedure for voiding suspensions.

Upon receipt by OPIC from the subject entity of notice of the entry of a final judgment of reversal of the conviction or convictions on which a suspension was based, and subject to

22 CFR Ch. VII (4-1-15 Edition)

verification thereof by the General Counsel and to a finding by the General Counsel that no other convictions under the act are outstanding, the President shall void such suspension

PART 710—ADMINISTRATIVE ENFORCEMENT PROCEDURES OF POST-EMPLOYMENT RESTRICTIONS

Sec.

710.1 General.

710.2 Action on receipt of information regarding violation.

710.3 Initiation of administrative disciplinary proceeding.

710.4 Notice.

710.5 Failure to request hearing.

710.6 Appointment and qualifications of examiner.

710.7 Time, date and place of hearing.

710.8 Rights of parties at hearing.

710.9 Burden of proof.

710.10 Findings.

710.11 Appeal.

710.12 Finding of violation.

710.13 Appropriate action.

710.14 Judicial review.

710.15 Delegation of authority.

AUTHORITY: 18 U.S.C. 207(j).

SOURCE: 45 FR 5685, Jan. 24, 1980, unless otherwise noted.

§ 710.1 General.

The following procedures are hereby established with respect to the administrative enforcement of restrictions on post-employment activities (18 U.S.C. 207(a), (b) or (c) and implementing regulations (44 FR 19987 and 19988, April 3, 1979) published by the Office of Government Ethics.

§ 710.2 Action on receipt of information regarding violation.

On receipt of information regarding a possible violation of the statutory or regulatory post-employment restrictions by a former OPIC employee and after determining that such information does not appear to be frivolous, the President of OPIC or the President's designee shall provide such information to the Director of the Office of Government Ethics and to the Criminal Division, Department of Justice. Any investigation or administrative action shall be coordinated with the Department of Justice to avoid

Overseas Private Investment Corporation

§ 710.11

prejudicing possible criminal proceedings. If the Department of Justice informs OPIC that it does not intend to institute criminal proceedings, such coordination shall no longer be required and OPIC shall be free to pursue administrative action.

§ 710.3 Initiation of administrative disciplinary proceeding.

Whenever the President of OPIC or the President's designee determines after appropriate review that there is reasonable cause to believe that a former OPIC employee had violated the statutory or regulatory post-employment restrictions, an administrative disciplinary proceeding shall be initiated.

§ 710.4 Notice.

The President of OPIC or the President's designee shall initiate an administrative disciplinary hearing by providing the former OPIC employee with notice of an intention to institute a proceeding and an opportunity for a hearing. Notice must include:

- (a) A statement of allegations and the basis thereof sufficiently detailed to enable the former employee to prepare an adequate defense;
- (b) Notification of the right to a hearing; and
- (c) An explanation of the method by which a hearing may be requested.

§ 710.5 Failure to request hearing.

The President of OPIC may take appropriate action referred to in § 710.13 in the case of any former OPIC employee who has failed to make a written request to OPIC for a hearing within 30 days after receiving adequate notice.

§ 710.6 Appointment and qualifications of examiner.

When a former OPIC employee after receiving adequate notice requests a hearing, a presiding official (hereinafter referred to as "examiner") shall be appointed by the President of OPIC to make an initial decision. The examiner shall be a responsible person who is a member of the bar of a State or of the District of Columbia, who is impartial and who has not participated in any manner in the decision to initiate

the proceedings. The examiner may or may not be an OPIC employee.

§ 710.7 Time, date and place of hearing.

The examiner shall establish a reasonable time, date and place to conduct the hearing. In establishing a date, the examiner shall give due regard to the former employee's need for:

- (a) Adequate time to prepare a defense properly; and
- (b) An expeditious resolution of allegations that may be damaging to the individual's reputation.

§ 710.8 Rights of parties at hearing.

A hearing shall include, at a minimum, the following rights for both parties to:

- (a) Represent oneself or be represented by counsel;
- (b) Introduce and examine witnesses and submit physical evidence (including the use of interrogatories);
- (c) Confront and cross-examine adverse witnesses;
- (d) Present oral argument; and
- (e) Receive a transcript or recording of the proceedings on request.

§ 710.9 Burden of proof.

In any hearing under this part, OPIC shall have the burden of proof and must establish substantial evidence of a violation of the statutory or post-employment restrictions.

§ 710.10 Findings.

The examiner shall make a determination exclusively on matters of record in the proceeding and shall set forth in the written decision all findings of fact and conclusions of law relevant to the matters in issue.

§ 710.11 Appeal.

(a) Within 20 days of the date of the initial decision, either party may appeal the decision to the President of OPIC. The President's decision on such appeal shall be based solely on the record of the proceedings or those portions thereof cited by the parties to limit the issues.

(b) If the President modifies or reverses the examiner's decision, the President shall specify such findings of

§ 710.12

fact and conclusions of law as are different from those of the examiner.

(c) The decision of the President on appeal, shall constitute final administrative decision. An initial decision of the examiner which has not been appealed during the 20-day period provided shall become a final administrative decision on the twenty-first day.

§ 710.12 Finding of violation.

The President of OPIC shall take appropriate action referred to in § 710.13 in the case of an individual who is found in violation of the statutory or regulatory post-employment restrictions, after a final administrative decision.

§ 710.13 Appropriate action.

Appropriate action includes:

(a) Prohibiting the individual from making, on behalf of any other person (except the United States), any formal or informal appearance before, or with the intent to influence, any oral or written communication to, OPIC on any matter or business for a period not to exceed five years, which may be accomplished by directing OPIC employees to refuse to participate in any such appearance or to accept any such communication.

(b) Taking other appropriate disciplinary action.

[45 FR 5685, Jan. 24, 1980; 49 FR 18295, Apr. 30, 1984]

§ 710.14 Judicial review.

Any person found to have participated in a violation of statutory or regulatory post-employment restrictions (18 U.S.C. 207(a), (b) or (c) or the regulations compiled at 44 FR 19987 and 19988, April 3, 1979) may seek judicial review of the administrative determination.

§ 710.15 Delegation of authority.

The functions of the President of OPIC specified in §§ 710.2, 710.4 and 710.5 of this part are delegated to the General Counsel of OPIC. An examiner shall be delegated authority on an *ad hoc* basis.

22 CFR Ch. VII (4-1-15 Edition)

PART 711—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE OVERSEAS PRIVATE INVESTMENT CORPORATION

Sec.

711.101 Purpose.

711.102 Application.

711.103 Definitions.

711.104-711.109 [Reserved]

711.110 Self-evaluation.

711.111 Notice.

711.112-711.129 [Reserved]

711.130 General prohibitions against discrimination.

711.131-711.139 [Reserved]

711.140 Employment.

711.141-711.148 [Reserved]

711.149 Program accessibility: Discrimination prohibited.

711.150 Program accessibility: Existing facilities.

711.151 Program accessibility: New construction and alterations.

711.152-711.159 [Reserved]

711.160 Communications.

711.161-711.169 [Reserved]

711.170 Compliance procedures.

711.171-711.999 [Reserved]

AUTHORITY: 29 U.S.C. 794.

SOURCE: 53 FR 25882, 25885, July 8, 1988, unless otherwise noted.

§ 711.101 Purpose.

The purpose of this regulation is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 711.102 Application.

This regulation (§§ 711.101-711.170) applies to all programs or activities conducted by the agency, except for programs or activities conducted outside the United States that do not involve individuals with handicaps in the United States.

§ 711.103 Definitions.

For purposes of this regulation, the term—